IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No.102 of 2000

Date of decision : July 13, 2007

State of H.P. **…Appellant.**

Versus

Suresh Kumar and another **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Ashok Chaudhary, Additional Advocate General.

For the Respondents : Mr. Vinay Thakur, Advocate.

Surjit Singh, Judge (Oral)

Respondents were sent up for trial for offence under Section 354 IPC for allegedly outraging the modesty of a married woman when she was returning from a forest after collecting fuel wood in the company of three girls. Respondents allegedly started touching and pressing the breasts of the lady. The girls accompanying her got scared and ran away and also raised hue and cry. One Rajiv, who was sitting by the side of the road at some distance, reached the spot and rescued the lady. In the meanwhile, two other young girls, named Veena and Rita, reached there. They helped Rajiv in rescuing the lady. The two respondents then ran away. The incident had taken place on 10th January, 1996 and the matter was reported to the Police on 13th January, 1996.

2. Trial Court has acquitted both the respondents holding that there are a number of contradictions in the testimony of the lady in

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Whether reporters of the local papers may be allowed to see the judgment?

the Court and the earliest version, which she gave to the police, and the said contradictions make the prosecution version highly doubtful.

3. I have heard the learned Additional Advocate General and the learned defence counsel.

4. In the Court, the lady stated that when she and some other girls were going to the forest to collect fuel wood, three boys, out of whom two were the respondents and third was Rajiv, the alleged rescuer, came from the opposite direction and the two respondents started teasing her and one of them caught hold of her by her arm and then both of them started pressing her breasts. She also stated that Rajiv tried to rescue her but could not succeed and that in the meanwhile two girls, named Veena and Rita, came there and they gave beatings to the two respondents with sticks and then they ran away. She stated that both the respondents were drunk. This statement is in total contradiction with the version given in the FIR Ex. PW-2/A. The lady was duly confronted with the contradictory portions B to B and C to C of the FIR. She offered no plausible explanation. As noticed while summarizing the facts, the lady in the FIR got recorded that she was assaulted when she and some girls were returning from the forest after collecting fuel wood and that Rajiv was not with the respondents but he came to her rescue on hearing the alarm raised by her as also the girls accompanying her. Again, in her testimony she stated that after the incident she went to the forest to collect fuel wood, but in the earliest version she stated that she was returning from the forest after having already collected the fuel wood and after the incident she went home.

5. These contradictions do create reasonable doubt about the correctness of the prosecution version. Therefore, no fault can be found with the finding of the trial Court that the case of the prosecution

does not stand established beyond reasonable doubt. Consequently the appeal is dismissed.

6. Appeal stands disposed of.

July 13, 2007(sd) **(Surjit Singh), J**